



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Uvalde Co

Mr. Neil J. Gilligan
County Auditor
Uvalde, Texas

Dear Sir:

Opinion Number 0-1287

Re: Authority of counties to
expend funds given to them
under the terms of House Bill
#688 for construction and
maintenance of lateral roads.

We are in receipt of your letter in which you propound the following question:

"May the funds given to counties under the terms of this bill be expended by the commissioners' court for the construction and maintenance of county lateral roads, and if so, when?"

In reply to your question we refer you to paragraph 3 under Subsection (4) of Section (h) of House Bill #688, passed by the Forty-sixth Legislature, Regular Session, 1939, which provides, in part, as follows:

"Funds remaining in the lateral road fund of any county after the payment of said right-of-way obligations may be used by the county under the direction of the Commissioners' court for any one or all of the following purposes: (a) For the acquisition of rights-of-way for county lateral roads and for the payment of legal obligations incurred therefor prior to January 2, 1939, (b) for the construction or improvement of county lateral roads, (c) for paying the principal, interest and sinking fund requirements of any bonds or

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warrants which were legally issued by such county or road district prior to January 2, 1939, the proceeds of which were actually expended in the construction or improvement of lateral county roads, (d) for the purpose of supplementing funds appropriated by the United States Government for Works Progress Administration highway construction, Public Works Administration highway construction, and such other grants of Federal funds as may be made available to the counties of this State for county lateral road construction, and (e) for the purpose of cooperating with the State Highway Department and the Federal Government in the construction of farm-to-market roads."

In our opinion this clearly authorizes the commissioners' court to expend the funds given them under House Bill #888 for the construction and maintenance of county lateral roads.

When once the county is advised of the balance available to their credit in the lateral road account set up under this law by the Board of County and District Road Indebtedness it then becomes a matter for determination by the commissioners' court of that county as to the disposition of such funds available, subject only to the restrictions above stated.

This department is not in a position to say when such funds may become available to the various counties, for the reason that the administration of this law has been conferred upon the Board of County and District Road Indebtedness and we think that they alone can advise you as to the time such funds will become available.

You have already been mailed a copy of our opinion Number 0-908, which we think answers your third inquiry as

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to the constitutionality of this bill. We might state further that in our opinion the objections raised in Opinion Number O-908 were corrected in the present bill. House Bill #688, we think, complies with Opinion Number O-908.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Clarence E. Crowe*
 Clarence E. Crowe
 Assistant

CEC-s

APPROVED SEP 23, 1939
 /s/ Gerald C. Mann *Gerald C. Mann*
 ATTORNEY GENERAL OF TEXAS

APPROVED
 OPINION COMMITTEE
 By /s/ B.W.B.
 Chairman

Clarence E. Crowe